

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

MARTIJN J. DEKKER

Serial No. 09/787,094

Filed: March 13, 2001



Atty. Docket

PHN 17,550

Group Art Unit: 2627

Examiner: MICHAEL BATTAGLIA

Title: METHODS AND DEVICES FOR RECORDING MARKS IN AN INFORMATION LAYER OF AN OPTICAL RECORD CARRIER, AND RECORD CARRIER FOR USE THEREIN

Mail Stop: Petitions

Commissioner for Patents

Washington, D.C. 20231

PETITION TO WITHDRAWN HOLDING OF ABANDONMENT BASED ON
FAILURE TO TIMELY FILE A PROPER REPLY

Sir:

This Petition responds to a Notice of Abandonment mailed June 15, 2006 (attached as Exhibit 1). The Notice holds that this application is abandoned for "failure to timely respond within the three-month period set to the Request for Reconstruction Notice under 37 CFR 1.251" (attached as Exhibit 2).

Applicant hereby petitions that the holding of abandonment be withdrawn because a proper response was timely mailed with a certificate of mailing in accordance with 37 CFR §1.8(a)(1)(i)(A).

Specifically, on April 18, 2002, in response to the office letter, Applicant deposited with the United States Postal Service, with sufficient postage as first class mail, an envelope addressed according to 37 CFR §1.1(a), containing the Response to Notice Under 37 CFR 1.251 (attached as Exhibit 3) including a certificate of mailing, together with a copy of the Notice. The mailing date, is well within the three months permitted to respond to the Office letter before abandonment of the application. Applicant never received the return of the acknowledgement of receipt post card.

RECEIVED

JUL 31 2006

Technology Center 2600

I then performed a search on Public PAIR's IFW (attached as Exhibit 4) to determine if the required response was noted. I discovered that the Response dated April 18, 2006 was indeed received at the USPTO along with 13 copies of Applicant's record of all correspondence between the USPTO and the applicant.

Thus, the proper response with the proper certificate of mailing was timely and properly mailed, and the Patent and Trademark Office is required to consider the response to be timely filed in accordance with 37 CFR §1.8(a).

Accordingly, it is requested that the holding of abandonment be withdrawn, and that the response be entered, and that the status of the above-identified application be changed from abandoned to pending.

If there are any difficulties regarding this matter, it is requested that the undersigned be contacted at the telephone number indicated below.

Respectfully submitted,



Michael E. Belk, Reg. No. 33,357
Senior patent Counsel
(914) 333-9643

Enclosures: Exh. 1: Copy of June 15, 2006 Notice of Abandonment
Exh. 2: Copy of January 18 2006 Notice Under
37 CFR 1.251
Exh. 3: Copy of April 18, 2006 Response
Exh. 3: Copy of PAIR-IFW

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited this date
with the United States Postal Service as first-class mail in an envelope addressed to:
COMMISSIONER FOR PATENTS
Alexandria, VA 22313-1450

On July 21, 2006

By Noemi Chaga

EXHIBIT 1



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

P16214

06 JUN 19 2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,094	03/13/2001	Martijn Jeroen Dekker	PHN 17.550	1104

24737 7590 06/15/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

BATTAGLIA, MICHAEL

ART UNIT PAPER NUMBER

2627

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SECY/ATTY
AFTER SCANNING

DOCKETED	DATE	INITIAL
COMPUTER	PC JUN 19 2006	
SECRETARY		
ATTORNEY		

Needs Petition to Revive!
P.C.
19-JUN-2006

Scanned by VK_{2p} 06/20/06

Notic of Abandonm nt

Application No.

09/787,094

Examiner

Battaglia, Michael V***

Applicant(s)

DEKKER ET AL.

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Applicant's failure to timely respond within the three-month period set to the Request for Reconstruction Notice under 37 CFR 1.251.

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

EXHIBIT 2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,094	03/13/2001	Martijn Jeroen Dekker	PHN 17.550	1104

24737 7590 01/18/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

BATTAGLIA, MICHAEL V

ART UNIT PAPER NUMBER

2652

DATE MAILED: 01/18/2006

4/18/06
Sent

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED	DATE	INITIAL
COMPUTER	PC	JAN 24 2006
SECRETARY		
ATTORNEY		

DOWNLOADED FROM PAIR

DATE: 7/21/06

NAME: Noemi Chapa

v. K
6p



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

NOTICE UNDER 37 CFR 1.251 - Pending Application

☐ The file of the above-identified application cannot be located after a reasonable search. Therefore, the Office is initiating the reconstruction of the file of the above-identified application pursuant to the provisions of 37 CFR 1.251.

Applicant is given a period of **THREE (3) MONTHS** from the mailing date of this notice within which to provide a copy of applicant's record (if any) of all of the correspondence between the Office and applicant for the above-identified application (except for U.S. patent documents), a list of such correspondence, and a statement that the copy is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and whether applicant is aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☐ The following paper(s) pertaining to the above-identified application cannot be located after a reasonable search:

All papers that you have on this case

Therefore, the Office is initiating the reconstruction of such paper(s) pursuant to the provisions of 37 CFR 1.251.

Applicant is given a period of **THREE (3) MONTHS** from the mailing date of this notice within which to provide a copy of the paper(s) listed above and a statement that the copy of such paper(s) is a complete and accurate copy of applicant's record of such paper(s).

Alternatively, applicant may reply to this notice by producing applicant's record (if any) of all of the correspondence between the Office and the applicant for the above-identified application for the Office to copy (except for U.S. patent documents), and provide a statement that the papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), whether applicant is aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records. Such records must be brought to the Customer Service Center in the Office of Initial Patent Examination (Crystal Plaza 2, 2011 South Clark Place, Arlington, VA 22202).

If applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application (or any copy of the paper(s) listed above), applicant must reply to this notice by providing a statement that applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

Failure to reply to this notice in a timely manner will result in abandonment of the above-identified application. The three-month period for reply to this notice may be extended (up to a maximum of six months) under the provisions of 37 CFR 1.136(a). However, failure to reply within this three-month period will result in a reduction of any patent term adjustment. See 37 CFR 1.704(b).

☐ A printout from PALM of the contents of the file of the above-identified application is included with this notice.

Direct the reply to this notice to:

U. S. Patent and Trademark Office
Office of Publication
Attention: Jim Alexander
703-308-9250 ext. 132
2900 Crystal Drive, Room 8C19
Arlington, Va 22202

Direct questions concerning this notice to:

EXHIBIT 3



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO-2053-B (Rev. 10/03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

In re Application of: Martijn J. Dekker
Application No.: 09/787,094 (PHN 17-550)
Filing Date: MARCH 13, 2001
Title: Methods and Devices for Recording Marks in an Information Layer ...

Direct to: U. S. Patent and Trademark Office
Office of Publication
Attention: Jim Alexander
703-308-9250 ext. 132
2900 Crystal Drive, Room 8C19
Arlington, Va 22202

NOTICE UNDER 37 CFR 1.251 - Pending Application

Statement (check the appropriate box):

☒ The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☐ The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).

☐ The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

☐ Applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

4-18-06
Date

Larry Liberchuk
Signature
Larry Liberchuk
Typed or printed name

A copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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DATE: 7/21/06

NAME: Noemi Chapa



"B"

2652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

MARTIJN J. DEKKER

PHN 17-550

Serial No. 09/787,094

Group Art Unit: 2652

Filed: MARCH 13, 2001

Examiner: MICHAEL V. BATTAGLIA

Title: METHODS AND DEVICES FRO RECORDING MARK I AN INFORMATION
LAYER OS AN OPTICAL RECORD CARRIER, AND RECORD CARRIER FOR USE
THEREIN

Commissioner for Patents
Alexandria, VA 22313-1450

RESPONSE TO NOTICE UNDER 37 CFR 1.251 - PATENT

Sir:

In response to the Notice Under 37 CFR 1.251, attached are
accurate copies of applicant's record of all the correspondence
between the US Patent Office and applicant for the above-identified
application and a copy of the Notice.

DOWNLOADED FROM PAIR

DATE: 7/21/06

NAME: Noemi Chapa

LIST OF CORRESPONDENCE:

1. Transmittal Letter Under 37 CFR 371 - dated March 13, 2001 which includes:
 - a. Appointment of Associates IDS/1449 + 2 references
 - b. Preliminary Amendment
 - c. 20 sheets of application
 - d. 2 sheets of Executed Declaration/Oath
 - e. 3 sheets of formal drawings
2. Filing Receipt dated May 15, 2001
3. Notification of Acceptance of Application Under 35 USC 371
4. Letter to Correct Recordation of Assignment (7 pages)
5. Non-Final Office Action dated December 4, 2003
6. Amendment with Facsimile transmission Report and Auto-Reply from USPTO dated March 4, 2004
7. Office Action dated May 19, 2004
8. Corrected Amendment with Facsimile transmission Report and Auto-Reply from USPTO dated August 23, 2004
9. Notice of Allowance and Fee Due dated September 1, 2004
10. Amendment After Allowance Under 1.312 with Facsimile Transmission Report and Auto-Reply from USPTO dated December 3, 2004
11. Payment of Issue Fee (PTOL-85) dated December 1, 2004
12. Assignment to Koninklijke Philips Electronics NV
13. Recordation of Assignment dated May 20, 2005

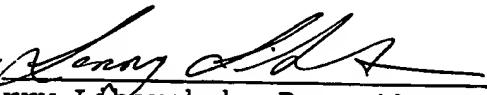
REMARKS

The Notice Under 37 CFR 1.251 states that the file for the above-identified patent cannot be located at the US Patent Office and therefore the office has initiated the reconstruction of the file.

Enclosed as requested please find copies of applicant's record of all the correspondence between the US Patent Office and the applicant for the above-identified application. Applicant is not aware of any other correspondence that is not among applicant's record.

In the event that there are any difficulties regarding this matter, it is requested that the undersigned be contacted at the telephone number indicated below.

Respectfully submitted,

By 
Larry Liberchuk, Reg. 40,352
for Michael E. Belk, Reg. 33,357
Senior Patent Counsel
(914) 333-9643

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited this date with the United States Postal Service as first-class mail in an envelope addressed to:
COMMISSIONER FOR PATENTS
Alexandria, VA 22313-1450

On April 18, 2006

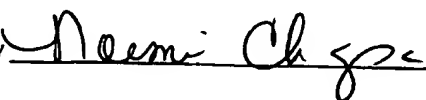
By 

Exhibit 4



United States Patent and Trademark Office

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Image File Wrapper for Application No.:09/787,094

NE

This application is officially maintained in paper form. The document images below do NOT comprise application file wrapper. To View: Click the desired Document Description. To Download and Print click Download.

Mail Room Date	Document Description	Document Category	
06/15/2006	Abandonment	PROSECUTION	
04/21/2006	NPL Documents	PROSECUTION	
04/21/2006	NPL Documents	PROSECUTION	
04/21/2006	NPL Documents	PROSECUTION	
04/21/2006	Request for Corrected Filing Receipt	PROSECUTION	
04/21/2006	Amendment - After Non-Final Rejection	PROSECUTION	
04/21/2006	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	
04/21/2006	Miscellaneous Incoming Letter	PROSECUTION	
04/21/2006	Drawings	PROSECUTION	
04/21/2006	Oath or Declaration filed	PROSECUTION	
04/21/2006	Information Disclosure Statement (IDS) Filed	PROSECUTION	
04/21/2006	NPL Documents	PROSECUTION	
04/21/2006	NPL Documents	PROSECUTION	
04/21/2006	NPL Documents	PROSECUTION	
12/06/2004	Issue Fee Payment Recorded	PROSECUTION	
12/03/2004	Amendment after Notice of Allowance (Rule 312)	PROSECUTION	
12/03/2004	Claims	PROSECUTION	
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03/13/2001	Miscellaneous Incoming Letter	AS FILED	

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